



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100

Boston, MA 02109-3912

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URGENT LEGAL MATTER – PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

July 24, 2018

First Lawrence Financial, LLC
c/o James Grifoni
159 Stillwater CT
Marco Island, Florida 34145-4221

Re: Notice of Potential Liability and Invitation to Perform or Finance Proposed Cleanup
Activities for the Former Tombarello and Sons Property Site in Lawrence, Massachusetts

Dear Mr. Grifoni:

This letter serves to notify you of potential liability regarding the Former Tombarello and Sons Property Site, ("Site"), as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), commonly known as the federal "Superfund" law. This letter also notifies of planned removal activities at the Site which First Lawrence Financial, LLC is invited to perform or finance and which it may be ordered to perform at a later date.

Under CERCLA, EPA is responsible for responding to the release or threat of release of hazardous substances, pollutants or contaminants into the environment, i.e., for stopping further contamination from occurring and for cleaning up or otherwise addressing any contamination that has already occurred. EPA has documented that such a release has occurred at the Site located at 207 Marston Street in Lawrence, MA. Under an Administrative Order on Consent between EPA and First Lawrence Financial, LLC, EPA performed a removal action on the residential properties and First Lawrence Financial, LLC conducted removal activities from April 2011 through June 2011 on the Tombarello Property. In 2016, the Tombarello Property was divided into two parcels. For this removal action, the Site is more narrowly defined to include only a portion of the former site property.¹ The Site now comprises the larger of the two parcels, which encompasses 11.56 acres, Lot 17-2 on Lawrence Tax Map 33, one of two parcels pictured on Town Plan #17545. The Site is also commonly referred to as Parcel #2.

Hazardous substances involved in the release or threat of release of hazardous substances at the Site include, but are not limited to: poly chlorinated biphenyls, lead, and zinc. EPA has spent

¹ On December 20, 2016, the Planning Board of the City of Lawrence approved the subdivision of the property into two parcels depicted as Lot 17-1 (approximately 2.5-acres) and 17-2 (approximately 11.56-acres) on tax Map 33; also, commonly referred to as Parcels #1 (the smaller lot) and #2 (the larger lot, which comprises the Site).

public funds and is considering spending additional public funds to investigate and address the releases and/or threatened release(s) at the Site. Based on information presently available to EPA, EPA has determined that First Lawrence Financial, LLC is potentially liable under CERCLA for the cleanup of the Site, which First Lawrence Financial is invited to perform or finance and which it may be ordered to perform at a later date. Unless a potentially responsible party ("PRP") or parties commit to properly performing or financing such actions, EPA will perform these actions pursuant to Section 104 of CERCLA, 42 U.S.C. §9604.

EXPLANATION OF POTENTIAL LIABILITY

Under CERCLA, specifically Sections 106(a) and 107(a), 42 U.S.C. §§9606(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6973, and other laws, potentially responsible parties ("PRPs") may be required to implement cleanup actions deemed necessary by EPA to protect public health, welfare, or the environment. PRPs may also be responsible for all costs incurred by the Government in responding to any release or threatened release at the Site, unless the PRP can show divisibility or any of the other statutory defenses. Such actions and costs may include, but are not limited to: expenditures for investigations, planning, response, disposal, oversight and enforcement activities.

PRPs include current and former owners and operators of a Site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the Site, and persons who accepted hazardous substances for transport and selected the Site to which the hazardous substances were delivered.

Based on information gathered during investigations of the Site, EPA believes that First Lawrence Financial, LLC is a PRP under Section 107(a) of CERCLA with respect to the Site. Specifically, EPA has reason to believe that First Lawrence Financial, LLC as a previous owner and/or operator of the Site, has potential liability for the Site. First Lawrence Financial, LLC is urged to voluntarily perform or finance those response activities that EPA determines are necessary at the Site.

OUTLINE OF SITE RESPONSE ACTIVITIES

To date, EPA has taken the following response action at the Site under the authority of the Superfund Program, including a Preliminary Assessment ("PA") and Site Investigation ("SI") on December 16, 2016 and June 17, 2017 in order to gain a basic understanding of any risks posed to human health and/or the environment by releases or threatened releases from the Site.

Due to the presence of hazardous substances at the Site, and in light of other factors, EPA has determined that there is an imminent and substantial endangerment to public health, welfare, or the environment. In response, EPA plans to conduct the following immediate removal activities at the Site: e.g., perform sampling, identification and characterization of hazardous materials; and remove from surface soil hazardous materials exceeding both EPA Removal Management Levels and Massachusetts Contingency Plan screening levels, and dispose of the hazardous material at an EPA-approved disposal facility.

INVITATION TO PERFORM SITE RESPONSE ACTIVITIES

Before EPA spends public funds to undertake the removal action at the Site, EPA urges First Lawrence Financial, LLC to participate in removal activities or finance all the removal activities outlined above. Any such work performed by First Lawrence Financial, LLC in its capacity as a PRP may be conducted pursuant to an administrative order and an EPA-approved workplan as authorized by Section 106(a) of CERCLA, 42 U.S.C. § 9606(a). Prior to final issuance of such an order, a draft order would be sent to you or your representative for review and comment. Enclosed is a copy of a summary of a generic Scope of Work. This document should provide an understanding of the types of plans and activities typically required by such an Order.

Be advised that even if First Lawrence Financial, LLC does not indicate a willingness to perform or finance necessary response actions, EPA explicitly reserves any rights it may have to order First Lawrence Financial, LLC to undertake such actions under Section 106 of CERCLA, 42 U.S.C. § 9606. Failure to comply with a Section 106(a) administrative order may result in a fine of up to \$32,500 per day under Section 106(b) or imposition of treble damages under Section 107(c) (3) of CERCLA. Further, First Lawrence Financial, LLC may be held liable under Section 107(a) for the cost of the response activities EPA performs at the Site and for any damages to natural resources. In addition, by virtue of Section 113 of CERCLA, 42 U.S.C. § 9613, other PRPs who agree to perform the necessary response action may seek contribution protection.

FINANCIAL CONCERNS/ABILITY TO PAY SETTLEMENTS

EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a Site may be substantially limited. If you believe, and can document, that First Lawrence Financial, LLC falls within that category, please contact Stacy Greendlinger (see below) for information on "Ability to Pay Settlements." In response, you will receive a package of information about the potential for such settlements. You will be asked to fill out form(s) about First Lawrence Financial, LLC's finances and to submit financial records including business federal and state income tax returns. If EPA concludes that First Lawrence Financial, LLC has a legitimate inability to pay the full amount of EPA's costs, EPA may offer a schedule for payment over time or a reduction in the total amount demanded.

Also, please note that, because EPA has a potential claim against First Lawrence Financial, LLC, EPA must be included as a creditor if the company files for bankruptcy.

PRP RESPONSE AND EPA CONTACT

You should contact EPA within **ten (10) business days** after receipt of this letter to indicate First Lawrence Financial, LLC's willingness to perform or finance the response activities outlined above. If EPA does not receive a response within that time, EPA will assume that First Lawrence Financial, LLC does not wish to negotiate a resolution of its liabilities in connection with the response and that it has declined any involvement in performing response activities. Be advised, however, that liability under CERCLA is joint and several; therefore, each PRP is

potentially liable for undertaking all response actions or reimbursing the Government for the entire amount of its response costs.

Please provide the name, address, telephone number and email address of a designated contact for future communications. Your written response, including any technical comments or questions concerning the proposed response activities, should be directed to the EPA On-Scene Coordinator (“OSC”) or the Enforcement Coordinator (“EC”) for the Site:

Tom Condon, OSC
U.S. Environmental Protection Agency
Emergency Response & Removal Section (OSRR 02-2)
5 Post Office Sq., Suite 100
Boston, Massachusetts 02109-3912
(617) 918-1206
Condon.tom@epa.gov

Stacy Greendlinger, EC
U.S. Environmental Protection Agency
Emergency Response & Removal Section (OSRR02-2)
5 Post Office Sq., Suite 100
Boston, Massachusetts 02109-3912
(617) 918-1403
Greendlinger.stacy@epa.gov

Legal questions and all communications from counsel should be directed to:

Cynthia Lewis, Senior Enforcement Counsel
U.S. Environmental Protection Agency
Office of Environmental Stewardship
5 Post Office Sq., Suite 100
Boston, Massachusetts 02109-3912
(617) 918-1889
Lewis.cindy@epa.gov

DECISION NOT TO USE SPECIAL NOTICE

Under Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), EPA has the discretionary authority to invoke special notice procedures to formally negotiate the terms of an agreement between EPA and the PRPs to conduct or finance response activities. The use of special notice procedures triggers a moratorium on certain EPA activities at the Site while formal negotiations between EPA and the PRPs are conducted.

Due to the exigencies posed by conditions present at the Site, removal activities must be conducted as expeditiously as possible. EPA has therefore decided not to invoke the Section

122(e) special notice procedures with respect to CERCLA removal actions at this Site. Nonetheless, EPA is willing to discuss settlement opportunities without invoking a moratorium, but will continue the response action as planned unless such discussions lead expeditiously to a settlement.

ADMINISTRATIVE RECORD

Pursuant to Section 113(k) of CERCLA, 42 U.S.C. § 9613(k), EPA will establish an administrative record containing documents that serve as the basis of EPA's decision on the selection of a cleanup action for the Site. The Administrative Record files may be inspected and comments may be submitted by contacting the OSC for the Site, Tom Condon, at the above address.

The Administrative Record Files with corresponding index should be available for inspection at a repository near the Site within sixty (60) days of initiation of on-site removal activities, as well as the Superfund Records Center, U.S. EPA, 5 Post Office Sq., Suite 100, Boston, Massachusetts 02109-3912, 617-918-1440.

SITE ACTIVITY OUTSIDE EPA ACTIONS

If you are already involved in discussions with state or other local authorities or involved in a lawsuit regarding this Site, you should continue such activities as you see fit. This letter is not intended to advise or direct you to restrict or discontinue any such activities. However, you are advised to report the status of any such discussions or actions in your response to this letter and to provide a copy of your response to any other parties involved in those discussions or actions.

RESOURCES AND INFORMATION FOR SMALL BUSINESSES

On January 11, 2002, the Superfund Small Business Liability Relief and Brownfields Revitalization Act was enacted. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may download a copy of the law from www.epa.gov/brownfields/brownfields-laws-and-regulations and review EPA guidance regarding these exemptions at <https://www.epa.gov/enforcement/defenses-and-exemptions-superfund-liability>.

EPA has created a number of helpful resources for small businesses. EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various forms of resources to small businesses. You may inquire about these resources at www.epa.gov. In addition, the EPA Small Business Ombudsman may be contacted at www.epa.gov/resources-small-businesses. Finally, EPA developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act ("SBREFA"), which is enclosed with this letter.

PURPOSE AND USE OF THIS NOTICE

The factual and legal discussions contained in this letter are intended solely to provide notice and

information. Such discussions are not intended to be, and cannot be, relied upon as EPA's final position on any matter set forth herein.

Please give these matters your immediate attention and consider consulting with an attorney. If you have any questions regarding this letter, please contact Cynthia Lewis at 617-918-1889.

By copy of this letter, EPA is notifying the State of Massachusetts and the Natural Resources Trustees of EPA's intent to perform, or to enter into negotiations for the performance or financing of, response actions at the Site.

Thank you for your attention to this matter.

Sincerely,



Carol Tucker, Chief
Emergency Planning and Response Branch

Enclosures

cc: Joanne Fagan, Massachusetts Department of Environmental Protection
Andrew Raddant, U.S. DOI Regional Environmental Officer
Ken Finkelstein, National Oceanic & Atmospheric Administration
Tom Condon, EPA On-Scene Coordinator
Stacy Greendlinger, EPA Enforcement Coordinator
Cynthia Lewis, EPA Senior Enforcement Counsel

SUMMARY OF GENERIC SCOPE OF WORK

This summary of the Generic Scope of Work is provided for informational purposes only. More detailed provisions will be set forth in the site-specific Scope of Work. Provisions may vary from site to site.

When EPA determines that a Potentially Responsible Party (PRP) has the ability to promptly and properly prevent, mitigate, or eliminate the threats posed by hazardous substances at the Site, EPA may issue an Administrative Order (Order) to such party (the Respondent) with an attached Scope of Work (SOW). The Order and SOW, among other things, compel the Respondent to develop a plan to clean up the Site. The components of the plan (also called a "deliverable") must be submitted to EPA for approval before implementation. Detailed instructions for generating each component shall be provided in the SOW. The plan shall consist of the components listed below.

- 1) **Site Security** - The Respondent shall provide on-site security service. Site security shall be maintained until EPA determines the threats posed by conditions at the Site are eliminated or substantially mitigated.
- 2) **Notification of Contractor Selection** - The Respondent shall notify EPA of the proposed cleanup contractor selected to perform work required under the Order.
- 3) **Site-Specific Health and Safety Plan (HASP)** - The Respondent shall develop and implement a HASP for all activities to be conducted at the Site. The HASP shall be developed to protect all on-site personnel and must comply with all applicable health and safety regulations.
- 4) **Quality Assurance Plan (QAP)** - The Respondent shall develop a QAP to be utilized in conducting all field and laboratory analysis. The QAP shall ensure that analytical results generated are of known quality.
- 5) **Site Assessment Plan (SAP)** - The Respondent shall develop a SAP specifying the overall strategy of the field investigative work necessary to characterize site contamination.
- 6) **Site Assessment** - A Site Assessment shall be conducted following EPA approval of the SAP.
- 7) **Site Assessment Report and Cleanup Plan (SAR/CP)** - Following completion of the Site Assessment, the Respondent shall develop a SAR/CP that summarizes the Site Assessment and proposes cleanup methods necessary to substantially mitigate and/or eliminate the threats posed by hazardous substances present at the Site.
- 8) **Site Cleanup** - The Site Cleanup shall be conducted according to the EPA approved Cleanup Plan.
- 9) **Completion of Work Report (CWR)** - Upon completion of the Site Cleanup, the Respondent shall submit a CWR summarizing the work performed under the Order and SOW and outlining any remaining contamination.

At any time prior to or after the completion of the work specified in this SOW, EPA may determine that additional tasks are necessary in order to achieve the objectives of the Order, the SOW and CERCLA.

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings, and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.